

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ERICK DONTAY GRAYSON,

Plaintiff,

v.

LAURA PEREZ,

Defendant.

Case No.: 1:24-cv-00311-SKO

**ORDER TO SHOW CAUSE IN WRITING
WHY APPLICATION TO PROCEED IN
FORMA PAUPERIS SHOULD NOT BE
DENIED**

30-DAY DEADLINE

Plaintiff Erick Dontay Grayson is proceeding pro se in this civil rights action pursuant to 42 U.S.C. § 1983.

I. INTRODUCTION

Plaintiff filed a complaint on March 14, 2024, and submitted an Application to Proceed In Forma Pauperis (“IFP”) by a Prisoner. (Docs. 1, 2.)

In his IFP application, Plaintiff states he is unable to pay the filing fee, he is not employed, and he does not receive any money from a business, profession or self-employment, rent payments, interest or dividends, pensions, annuities or life insurance payments, disability or workers’ compensation payments, gifts or inheritance, or from “[a]ny other sources.” (Doc. 2 at 1-2.) Plaintiff also denies having any cash or owning any real estate, stocks, bonds, security or other financial instruments, automobiles or other valuable property. (*Id.*) He denies having “any other assets.” (*Id.*) Plaintiff’s IFP application includes a copy of an Inmate Statement Report

1 dated July 7, 2024, reflecting an available balance of \$20.64. (*Id.* at 3-4.) It also includes a
 2 Certificate purportedly completed and signed by an authorized officer at the California Mens
 3 Colony on March 11, 2024, reflecting an average monthly balance of \$20.64 and average monthly
 4 deposits of \$150 for the previous six months. (*Id.* at 2.)

5 II. DISCUSSION

6 A review of Plaintiff IFP application and the Inmate Statement Report requested by and
 7 provided to the Court on March 15, 2024 (*see* Doc. 5), reveals discrepancies that must be
 8 accounted for.

9 Plaintiff states he does not receive any gifts or any money from “[a]ny other sources.”
 10 However, the Inmate Statement Report for the period between September 1, 2023 and March 15,
 11 2024, lists numerous “JPAY” entries with deposits totaling \$1,395. Monies provided to Plaintiff
 12 via JPAY should be disclosed and explained. *See, e.g., Hill v. Lynch*, No. 2:22-cv-0686 AC P,
 13 2023 WL 4187802, at *1-2 (E.D. Cal. June 26, 2023) (plaintiff’s trust account statement claiming
 14 to have “received no money from any source over the past twelve months was not accurate”
 15 where the statement shows “he received hundreds of dollars in deposits to his trust account” via
 16 JPAY); *Sloan v. Cisneros*, No. 1:21-cv-0477-EPG (PC), 2021 WL 5240280, at *1 (E.D. Cal. Oct.
 17 7, 2021) (“The Court also notes that Plaintiff was not forthcoming on his application to proceed in
 18 forma pauperis. ... he conspicuously failed to state whether he received income from ‘[a]ny other
 19 source’ in the last twelve months. Based on Plaintiff’s trust account statement, in the last six
 20 months alone Plaintiff received an economic impact payment as well as funds through JPAY on
 21 four separate occasions, with the average deposit from JPAY being \$200”). Plaintiff will be
 22 required to explain the eighteen¹ JPAY entries deposited into his account within the previous six
 23 months.

24 Plaintiff is advised this Court may take into consideration purchases in determining
 25 whether an individual should be granted IFP status. *Olivares v. Marshall*, 59 F.3d 109, 112 (9th

26 ¹ 9/7/23 (two deposits - \$100, \$50); 11/12/23 (one deposit - \$100); 11/25/23 (three deposits- \$100, \$50, \$50);
 27 12/13/23 (one deposit - \$50); 12/14/23 (one deposit - \$100); 12/30/23 (two deposits - \$200, \$50); 1/18/24 (two
 28 deposits - \$50, \$50); 2/11/24 (three deposits: \$50, \$50, \$50); 2/24/24 (one deposit - \$65); 2/27/24 (one deposit -
 \$150); 3/6/24 (one deposit - \$50).

1 Cir. 1995) (citation omitted) (courts are entitled to consider plaintiffs’ “economic choices about
 2 how to spend [their] money” when considering applications to proceed IFP); *see also Lumbert v.*
 3 *Illinois Dep’t of Corr.*, 827 F.2d 257, 260 (7th Cir. 1987) (“If the inmate thinks that a more
 4 worthwhile use of his funds would be to buy peanuts and candy . . . than to file a civil rights suit,
 5 he has demonstrated an implied evaluation of the suit that the district court is entitled to honor”).
 6 The Court notes Plaintiff made six purchases within the previous six months totaling \$1,244.04.
 7 Plaintiff will be directed to provide further information concerning the six² “SALES” entries
 8 reflected on his Inmate Statement Report for the period between September 1, 2023, and March
 9 15, 2024.

10 In sum, Plaintiff’s IFP application and the March 15, 2024, Inmate Statement Report do
 11 not establish that he is entitled to IFP status. Plaintiff must explain why the JPAY deposits during
 12 the relevant period were not disclosed on his IFP application and why the Court should find he is
 13 unable to pay the required filing fee. Plaintiff must also provide additional information
 14 concerning the SALES entries during the same period to allow for the Court’s consideration of
 15 his economic choices.

16 **III. CONCLUSION AND ORDER**

17 For the foregoing reasons, **IT IS HEREBY ORDERED** that:

- 18 1. Plaintiff **SHALL** show cause in writing, **within 30 days** of the date of service of this
 19 order, why his IFP application should not be denied. Specifically, Plaintiff **SHALL**
 20 (1) explain the eighteen JPAY entries appearing on his Inmate Statement Report, and
 21 (2) provide additional information concerning the six SALES entries appearing on his
 22 Inmate Statement Report; **or**
- 23 2. In the alternative, Plaintiff may pay the required \$405 filing fee.

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 28 ² Sales purchases: 9/13/23 - \$163.44; 11/25/23 - \$152.45; 12/14/23 - \$239.95; 1/10/24 - \$222.90; 2/14/24 - \$225.35;
 3/13/24 - \$239.95.

